

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

PETER TRUONG,

Plaintiff,

-v-

JAMES PETRUCCI,

Respondent.

18 Civ. 9039 (PAE) (DCF)

OPINION & ORDER

PAUL A. ENGELMAYER, District Judge:

Currently pending is Peter Truong’s habeas petition, pursuant to 28 U.S.C. § 2241, in he seeks a court order compelling his transfer from custody in federal prison to his native country of Australia. Dkt. 1. Before the Court is the November 12, 2021 Report and Recommendation of the Hon. Debra C. Freeman, United States Magistrate Judge, recommending that the Court dismiss the petition in its entirety, because Truong’s claim is deficient as a matter of law. Dkt. 18 (“Report”). The Court incorporates by reference the summary of the facts provided in the Report. For the following reasons, the Court adopts this recommendation.

**DISCUSSION**

In reviewing a Report and Recommendation, a district court “may accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” 28 U.S.C. § 636(b)(1)(C). “To accept those portions of the report to which no timely objection has been made, a district court need only satisfy itself that there is no clear error on the face of the record.” *Ruiz v. Citibank, N.A.*, No. 10 Civ. 5950 (KPF), 2014 WL 4635575, at \*2 (S.D.N.Y. Aug. 19, 2014) (quoting *King v. Greiner*, No. 02 Civ. 5810 (DLC), 2009 WL 2001439, at \*4

(S.D.N.Y. July 8, 2009)); *see also, e.g., Wilds v. United Parcel Serv.*, 262 F. Supp. 2d 163, 169 (S.D.N.Y. 2003).

As no party has submitted objections to the Report, review for clear error is appropriate. Careful review of Judge Freeman's thorough and well-reasoned Report reveals no facial error in its conclusions; the Report is therefore adopted in its entirety. Because the Report explicitly states that "failure to object within fourteen (14) days will result in a waiver of objections and will preclude appellate review," Report at 20, the parties' failure to object operates as a waiver of appellate review. *See Caidor v. Onondaga Cty.*, 517 F.3d 601, 604 (2d Cir. 2008) (citing *Small v. Sec'y of Health & Human Servs.*, 892 F.2d 15, 16 (2d Cir. 1989) (per curiam)).

### CONCLUSION

For the foregoing reasons, the Court dismisses Truong's petition for a writ of habeas corpus in its entirety. The Court respectfully directs the Clerk to mail a copy of this decision to plaintiff at the address on file, and to close the case.

SO ORDERED.



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Paul A. Engelmayer  
United States District Judge

Dated: March 30, 2022  
New York, New York